

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THOMAS PAUL WILLIAMS,

Plaintiff,

v.

HENRY RICHARDS *et al.*,

Defendants.

Case No. C05-5289RBL

ORDER ADOPTING
REPORT AND
RECOMMENDATION

The Court, having reviewed, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) (A) This is not a class action lawsuit under FRCP 23, although plaintiff refers to a “class” in the complaint. (Dkt. # 6, page 30).
- (B) Plaintiff is, apparently a member of the class formed in Turay v. Seling, C91-664RSM, and is, as a class member, represented by counsel in that case.
- (C) The issues plaintiff attempts to raise in his Complaint substantially overlap with issues raised in the Turay case. Insofar as these issues do overlap, they should be raised in Turay. The court is aware of the unpublished 9th opinion in Scott v. Seling, CV 03-5398RBL. The court sees no reason plaintiff cannot move to lift the stay in Turay to bring the conditions of confinement complained of to that courts attention. The conditions

1 of confinement and the treatment environment were the
2 focus of injunctive relief that is being monitored by the
Turay court.

3 (D) The Turay case is still open as is reflected in that file.

4 (E) Plaintiff's Complaint (Dkt. # 6) does not comply with
5 FRCP 8(a), which requires "a short plain statement of
6 the claim showing that the pleader is entitled to relief,"
7 or FRCP 8(e), which requires that "each averment of a
8 pleading shall be simple, concise, and direct." While
9 "no technical forms of pleadings...are required," and
10 while "all pleadings should be construed to do
11 substantial justice," FRCP 8(e), it is extremely difficult
12 to figure out just what, if anything, plaintiff is
13 complaining about that is not within the scope of Turay
14 and is covered within the scope of federal jurisdiction.
15 This is a sufficient basis, standing alone, to call for the
16 dismissal of Plaintiff's Complaint without prejudice.

17 (F) Although this suit seeks money damages, no damage request could be
18 considered until such time as the plaintiff prevailed under Turay.

19 (2) The Court adopts the Report and Recommendation.

20 (3) The complaint is DISMISSED WITHOUT PREJUDICE.

21 (4) The clerk is directed to send copies of this Order to plaintiff, counsel for any
22 defendants who have appeared, and to the Hon. J. Kelley Arnold.

23 DATED this 9th day of August, 2005.

24 
25 RONALD B. LEIGHTON
26 UNITED STATES DISTRICT JUDGE
27
28